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UNITED STATES PATENT APPLICATION**Examiner:** K. A. Chan**Art Unit:** 3632*In re:***Applicant:** ZHADANOV**Serial No.:** 10/053,614**Filed:** 01/24/2002**PETITION TO MAKE APPLICATION SPECIAL**

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to the Assistant Commissioner of Patents
and Trademarks, P. O. Box 1450
Alexandria, VA 22313-1450

ILYAZBOROVSKY

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

It is therefore requested to make application SPECIAL, since
inventor Sam ZHADANOV is over 65 years old. Also, there is interest in
purchasing a license on this invention.

In connection with this, it is respectfully requested to examine the application on expedited basis.

Respectfully submitted,


Ilya Zborovsky
Agent for Applicant
Reg. No. 28563

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UNITED STATES PATENT APPLICATION*Examiner:* K. A. Chan*Art Unit:* 3632*In re:**Applicant:* ZHADANOV*Serial No.:* 10/053,614*Filed:* 01/24/2002**PETITION TO REVIVE UNINTENTIONALLY ABANDONED
APPLICATION**

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Alexandria, VA 22313-1450

ILYA ZBOROVSKY

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

In this application the Amendment and Supplemental Amendment
were filed in response to the non final action of June 18, 2002.

Upon inquiry of the status of the application over the telephone
571-272-1000, it was informed that no amendments were received in response
to the above identified Final Office Action. It is respectfully submitted that the

response was filed by the undersigned. However, since the Office ~~action~~ does not have a record of it, it is respectfully submitted that the abandonment of the application was unintentional. It is therefore respectfully requested to revive the above identified application based on unintentional delay.

Respectfully submitted,


Ilya Zborovsky
Agent for Applicant
Reg. No. 28563

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jly

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UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner: K. H. Chan

Art Unit: 3632

In re:

Applicant: ZHADANOV

Serial No.: 10/053,614

Filed: 01/24/02

AMENDMENT

I hereby certify that this correspondence is
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of Patents and Trademarks, Washington,
D.C. 20231

ILYA ZBOROVSKY

Hon. Commissioner of
Patents and Trademarks
Washington, D.C. 20231

Sir:

Responsive to the Office Action of June 18, 2002, please amend
the application as follows:

✓ In the claims:

Cancel claims 2-7 without prejudice.

Amend claim 1 as follows:

1. A device for holding shower accessories, comprising [an] two attaching [element] elements each formed as a vacuum attaching element and having an axis, each of said attaching [element] elements being attachable to a surface in a plurality of positions by turning each of said attaching [element] elements around its axis; [a] two holding [element] elements connected with said attaching [element] elements and pivotable between an operative position in which one end of each of said holding [element] elements applies a pressure on each of said attaching [element] elements and causes said attaching element to be attached to the surface and an inoperative position in which each of said holding [element] elements is turned relative to each of said attaching element from said operative position, each of said holding [element] elements having another end which is opposite to said end applying pressure to said attaching [element] elements, said opposite end being provided with a tubular channel having a second axis extending transversely to said first axis [of said attaching element and formed so as to receive a shower accessory turnably around said

second axis, so that said shower accessory can be spatially oriented by turning said attaching element about said first axis and turning said shower accessory in said tubular channel around said second axis].

Amended claim 1:

1. A device for holding shower accessories, comprising two attaching elements each formed as a vacuum attaching element and having an axis, each of said attaching elements being attachable to a surface in a plurality of positions by turning each of said attaching elements around its axis; two holding elements connected with said attaching elements and pivotable between an operative position in which one end of each of said holding elements applies a pressure on each of said attaching elements and causes said attaching element to be attached to the surface and an inoperative position in which each of said holding elements is turned relative to each of said attaching element from said operative position, each of said holding elements having another end which is opposite to said end applying pressure to said attaching elements, said opposite end being provided with a tubular channel having a second axis extending transversely to said first axis.

~~Add the following claims:~~

8. A device for holding shower accessories, comprising an attaching element formed as a vacuum attaching element and having a first axis, said attaching element being attachable to a surface in a plurality of positions by turning said attaching element around said first axis; a holding element having a first part formed so as to act on said attaching element and cause said attaching element to be attached to the surface and a second part formed as a substantially tubular channel having a second axis extending transversely to said first axis of said attaching element and formed so as to receive a shower assembly turnably around said second axis, so that when said holding element is pivoted from an inoperative position to an operative position, said first part of said holding element acts on said vacuum attaching element to attach said vacuum attaching element to the surface and at the same time said substantially tubular channel is oriented along said second axis, so that said shower assembly can be spatially oriented by turning said attaching element about said first axis and turning said shower accessory in said substantially tubular channel around said second axis.

REMARKS

The last Office Action has been carefully considered.

It is noted that claims 1-4, 6 and7 are rejected under 35 U.S.C. 103(a) over the patent to Buswell in view of the patent to Howard.

Claims 1-4 and 6 are rejected under 35 U.S.C. 103(a) over the patent to Penzer in view of the patent to Buswell.

Claim 5 is rejected under 35 U.S.C. 103(a) over the patent to Penzer in view of the patents to Buswell and Lipski.

Claim 7 is rejected under 35 U.S.C. 103 over the patent to Penzer in view of the patent to Buswell and Howard.

Also, the claims are rejected under 35 U.S.C. 112.

In connection with the Examiner's rejection for formal reasons under 35 U.S.C. 112, applicants have amended the claims correspondingly.

After carefully considering the Examiner's grounds for the rejection of the claims over the art, applicants have cancelled claim 6 and amended claim 1, the broadest claim on file, to more clearly define the present invention and to distinguish it from the prior art.

It is respectfully submitted that claim 1 as amended clearly and patentably distinguishes the present invention from the references applied by the Examiner against the original claims.

Claim 1 specifically defines that the inventive device includes an additional element supported on the holding elements and is displaceable so that by displacing of only one additional element, both holding elements are turned relative to both attaching elements and simultaneously move the attaching elements between the operative position and the inoperative position.

Such a construction is exceptionally important. If holding elements are moved relative to the attaching elements independently from one another, then one attaching element is first attached to a wall or the like, after this it is necessary to orient the second attaching element so that it faces exactly the same wall flatly and then the second holding element is moved relative to the second attaching element to provide the attachment of the second attaching

element to the wall. This orientation of the attaching elements relative to one another and relative to the wall is very complicated and requires additional time. In contrast, since in the applicant's invention only single additional element is displaced and simultaneously turns both holding elements, both attaching elements are simultaneously attached to the wall in their final position, and it is not necessary to orient them individually relative to the wall.

Turning now to the references and particularly to the patent to Buswell, the Examiner's analysis of the references is accurate in that there are two devices including the holding element and the attaching element, and an additional element mounted on the substantially tubular channel, while the patent to Buswell does not disclose a vacuum attaching element. It is true that Howard teaches a device comprising a vacuum attaching element movable about its axis and a holding element, wherein there are two such devices. However, none of the references teaches a device in which a single additional element simultaneously displaces both holding elements to simultaneously provide attachment of both attaching elements to the wall.

None of these references teaches any hint or suggestion for such a concept and none of these references provides any hint or suggestion that an additional element can turn both holding elements to provide simultaneous

attachment of two attaching elements, and such a concept can not be considered as obvious from the references either taken singly or in combination with one another.

The patents to Penzer, Lipski and Howard also do not teach the above mentioned new features of the present invention as defined now in the amended claim 1. Therefore it is believed that the additional combinations of the references applied by the Examiner against the original claims are incapable of arriving at the applicant's invention as now defined in claim 1.

As explained herein above, the device in accordance with the present invention as defined in the amended claim 1 has structural features which are not disclosed in the references and can not be derived from it. In order to arrive at the applicant's invention from the references, the references have to be fundamentally modified. In particular, they have to be redesigned so as to introduce into them the new features of the present invention which is now defined in the amended claim 1. It is known that in order to arrive at a claimed invention, by modifying the references the cited art must itself contain a suggestion for such a modification.

This principle has also been consistently upheld by the U.S. Court of Customs and Patent Appeals which, for example, held in its decision in re Randol and Redford (165 USPQ 586) that

Prior patents are references only for what they clearly disclose or suggestion; it is not a proper use of a patent as a reference to modify its structure to one which prior art references do not suggest.

Definitely, the references do not have any hint or suggestions for such significant modifications.

As explained herein above, the new features of the present invention as defined in the amended claim 1 provide for the highly advantageous results. It is well known that in order to support a valid rejection the art must also suggest that it would accomplish applicant's results. This was stated by the Patent Office Board of Appeals, in the case Ex parte Tanaka, Marushima and Takahashi (174 USPQ 38), as follows:

Claims are not rejected on the ground that it would be obvious to one of ordinary skill in the art to rewire prior art devices in order to accomplish applicants' result, since there is no suggestion in prior art that such a result could be accomplished by so modifying prior art devices.

In view of the above presented remarks and amendments, it is believed that claim 1, the broadest claim on file, should be considered as patentably distinguishing over the art and should be allowed.

Applicant has also submitted another independent claim 8. This claim specifically defines that the attaching element is formed as a vacuum attaching element, while the holding element has a first part acting on the vacuum attaching element to attach it to the surface and a second part formed as a tubular channel for receiving a shower accessory. When the device is designed in accordance with the present invention, the shower accessory, for example a pipe of a hand shower can be oriented relative to the surface or the wall in any spacial position. When the holding element is pivoted relative to the attaching element, its first part activates the vacuum attaching element and it is attached to the surface, while its second part which has a substantially tubular channel receives the shower accessory. The shower accessory, for example the pipe of the hand shower can be turned in the tubular channel around the second axis to be at any position, and at the same time the vacuum attaching element can be also turned around the first axis, so that the shower accessory for example the pipe of the showerhead extends parallel to the wall but at any inclination relative to a vertical line.

In the patent to Panzer applied by the Examiner, the device has a suction cap, a holding element having a tubular channel, and a separate locking element so that the second part of the tubular channel does not actuate the suction cup in any way. Thus, this reference does not teach the new features of the present invention as now defined in the second independent claim. The patent to Howard discloses a device in which the suction cup is activated by one part of a hook, while the other part of the hook serves for suspending a corresponding object. Here, the holding element does have the first part which acts on the suction element and a second part, but the second part is not formed as a tubular channel. This is not acceptable for shower accessories and has significant disadvantages. When the hook is pivoted so that its one part acts on the suction cup, the hook must be oriented only in one position, or in other words so that it is located substantially in a vertical plane, since in the event if the hook otherwise is inclined relative to a vertical plane by a certain angle to approach a horizontal plane, an object can not be suspended on the hook since the object will slip from the hook. In contrast, since in the applicant's invention the holding element has one part acting on the suction cup and the other part which is not hook shaped but instead is tubular, therefore the device can be turned around the first axis of the suction cup at any angle, and nevertheless an object or the shower accessory, for example a tube of the hand shower, will still be reliably held in substantially tubular channel of the holding

element. Thus, while in the patent to Howard the holding element has the first part acting on the suction cup and the second part connected with a first part and formed to support an object, in view of the hook-shaped form of this supporting part the device can not be oriented to assume any spacial position.

It is believed that the present invention can not be considered as obvious from the prior art applied by the Examiner. The provision of the holding element which has first and second part, and in which the first part acts on the vacuum attaching element and the second integral part is tubular is not disclosed in any of the references and can not be derived from them as a matter of obviousness. This construction provides for the highly advantageous results which were explained herein above. It can not be considered as obvious to combine the references since the references do not have any hint or suggestion for such a combination. One of the references discloses a hook with an integral activating first part, while the other reference discloses a holding element with a tubular channel which has a totally separate activating device. As stated in ACS hosp.sys., inc. v. Monte Fiori Hosp. 221 USPQ 929, 932, 933 (Fed.Cir 1984):

"Obviousness can not be established by combining the teaches of the prior art to produce the claimed invention, absence some teaching or suggestion supporting the combination. Under section 103 teachings of references can be combined only if there is some suggestion or incentive to do so. The prior art of record fails to provide any such suggestion or incentive."

It is believed that this decision is clearly applicable to the current case. Applications do not contain any hint or suggestion to combine them.

None of the references discloses a holding element which has two parts connected with one another, with the first part acting on the vacuum attaching element, and the second part having a tubular channel. In order to arrive at the applicant's invention, the references have to be fundamentally modified. However, it is known that in order to arrive at a claimed invention, by modifying the references the cited art must itself contain a suggestion for such a modification.

This principle has also been consistently upheld by the U.S. Court of Customs and Patent Appeals which, for example, held in its decision in re Randol and Redford (165 USPQ 586) that

Prior patents are references only for what they clearly disclose or suggestion; it is not a proper use of a patent as a reference to

modify its structure to one which prior art references do not suggest.

Definitely, the references do not contain any hint or suggestion for such modifications.

Also, as explained herein above, the present invention provides for the highly advantageous results which can not be accomplished by the constructions disclosed in the references.

In view of the above presented remarks and amendments, it is believed that the second independent claim should also be considered as patentably distinguishing over the art and should also be allowed.

Reconsideration and allowance of present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Any costs involved

should be charged to the deposit account of the undersigned (No. 26-0085).

Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned (at 631-243-3818).

Respectfully submitted,


Ilya Zborowski
Agent for Applicant
Reg. No. 28563

Day : Wednesday

Date: 10/5/2005

Time: 08:19:41

PALM INTRANET**Application Number Information**Application Number: **10/053614** [Order This](#)
[File Assignments](#)Examiner Number: **69526 / CHAN, KORIE**Filing or 371(c) Date: **01/24/2002**Group Art Unit: **3632**Effective Date: **01/24/2002**Class/Subclass: **248/313.000**Application Received: **01/24/2002**Lost Case: **NO**Pat. Num./Pub. Num: **/20020125392**

Interference Number:

Issue Date: **00/00/0000**Unmatched Petition: **NO**Date of Abandonment: **09/19/2002**L&R Code: Secrecy Code: **1**

Attorney Docket Number:

Third Level Review: **NO**Status: **161 /ABANDONED – FAILURE TO RESPOND TO AN
OFFICE ACTION**Confirmation Number: **5016**Oral Hearing: **NO**Title of Invention: **DEVICE FOR HOLDING SHOWER ACCESSORIES**

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OCT 05 2005

UNITED STATES PATENT APPLICATION

Examiner: K. A. Chan

Art Unit: 3632

In re:

*Patricia Lewis
#9/BW
2-29-07*

Applicant: ZHADANOV

Serial No.: 10/053,614

Filed: 01/24/2002

**SUPPLEMENTAL
AMENDMENT**

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Alexandria, VA 22313-1450

ILYA ZBOROVSKY

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

Responsive to the last Office Action, please amend the application
as follows:

In the claims:

Claims 1-8 canceled.

9. (New) A device for holding accessories, comprising an attaching element formed as a vacuum attaching element and having a first axis, said attaching element being attachable to a surface in a plurality of positions by turning said attaching element around said first axis; a holding element having a first part formed so as to act on said attaching element and cause said attaching element to be attached to the surface and a second part formed as a substantially tubular channel having a second axis extending transversely to said first axis of said attaching element and formed so as to receive an accessory turnably around said second axis, so that when said holding element is pivoted from an inoperative position to an operative position, said first part of said holding element acts on said vacuum attaching element to attach said vacuum attaching element to the surface and at the same time said substantially tubular channel is oriented along said second axis, so that said accessory can be spatially oriented by turning said attaching element about said first axis and turning said accessory in said substantially tubular channel around said second axis; and means for pivotally connecting said holding element to said attaching element and including an opening provided in one of said elements and two projections extending inwardly from side walls of the other of said elements and

f1

engaging in said opening so as to form an axle for turning said holding element relative to said attachment element.

10. (New) A device as defined in claim 9; and further comprising a second such attaching element formed as a vacuum attaching element and having an axis and also attachable to a surface in a plurality of positions by turning said second attaching element around said first axis; a second holding element connected with said second attaching element and pivotable between an operative position in which one end of said second holding element applies a pressure on said second attaching element and causes said second attaching element to be attached to the surface and an in operative position in which said second holding element is turned relative to said second attaching element from said operative position, said second holding element also having another end which is opposite to said end applying pressure to said second attaching element, said opposite end of said second holding element being also provided with a tubular channel having a second axis extending transversely to said first axis, said tubular channels of both said attaching elements extending along a same second axis; and means for simultaneously attaching said tube attaching elements to the surface by simultaneously pivoting said tool holding elements to said operative position and including a single additional element which is held by said tool holding elements in said tubular channels of said other ends and which turns said two holding elements simultaneously to said operative position

*B1
cont'd*

so that one ends of said tool holding element simultaneously apply a pressure to said tool attaching elements and cause said two attaching elements to simultaneously attach to a surface.

*151
cont'd*

11. (New) A device as defined in claim 9, wherein said attaching element has a groove configured for connecting of said attaching element to said holding element during assembly.

REMARKS

The last Office Action has been carefully considered.

In connection with the Examiner's rejection of the claims, applicant has canceled the original claims and submitted new claims 9-11 to clearly define the present invention and to distinguish it from the prior art.

It is believed to be advisable, before the analysis of the prior art, to explain in detail the construction and the operative of the inventive device.

In the inventive device there is an attaching element which is attachable to a surface in a plurality of positions around the first axis, and a holding element is turnable relative to the attaching element so as to apply a pressure to the attaching element to attach it to the surface or to remove the pressure, and the holding element is pivotally connected with the attaching element by pivot means which include an opening provided in the attaching element and two inner projections provided in the walls of the holding element and engaging in the opening. In the drawing the opening is identified with reference numeral 5, while the projections are shown on the walls 8 and 9 of the holding element. This construction of the means for pivotally connected the holding element to the attaching element is exceptionally advantageous. In the

prior art usually a pin extending completely through the holding element is used for pivotally connecting the holding element to the attaching element, which pin extends outwardly, worsens an appearance of the device from outside, forms an additional extra part, complicates the assembly, and also causes water leakage.

In contrast, when the means for pivotally connecting the holding element 7 to the attaching element 1 are formed by the opening 5 and two inner projections on the walls 8 and 9, the projections extend inwardly and there are no parts which extend outwardly to worsen the appearance of the device (very important for these type of devices), the number of the parts is reduced, the assembly is simpler, and there are no gaps for water escape.

It is therefore respectfully submitted that the new features of the present invention which are defined in claim 9 first of all are not disclosed in the references and also can not be derived from them as a matter of obviousness. In order to arrive at the applicant's invention from the teachings of the references, the references have to be fundamentally modified, in particular by including into them the new features of the present invention which are now defined in claim 9. However, it is known that in order to arrive at a claimed invention, by modifying the references the cited art must itself contain a suggestion for such a modification.

This principle has also been consistently upheld by the U.S. Court of Customs and Patent Appeals which, for example, held in its decision in re Randol and Redford (165 USPQ 586) that

Prior patents are references only for what they clearly disclose or suggest; it is not a proper use of a patent as a reference to modify its structure to one which prior art references do not suggest.

Definitely, the prior art does not contain any hint or suggestion for such modifications.

As explained herein above, the present invention also provides for highly advantageous results which can not be accomplished by the construction disclosed in the prior art. It is well known that in order to support a valid rejection the art must also suggest that it would accomplish applicant's results. This was stated by the Patent Office Board of Appeals, in the case Ex parte Tanaka, Marushima and Takahashi (174 USPQ 38), as follows:

Claims are not rejected on the ground that it would be obvious to one of ordinary skill in the art to rewire prior art devices in order to accomplish applicants' result, since there is no suggestion in prior art that such a result could be accomplished by so modifying prior art devices.

In view of the above presented remarks and amendments, it is believed that claim 9 should be considered as patentably distinguishing over the art and should be allowed.

Claim 10 depends on claim 9 and shares its patentable features.

Also, it defines that with a single additional element both holding elements can be turned relative to the attaching elements, for example by means of the towel bar, so as to provide the attachment of the attaching element to the surface simultaneously. These features are also not disclosed in the references and therefore claim 10 should be considered as patentably distinguishing over the art as well.

Finally, claim 11 defines the circular groove 6 provided in the rod 4 which forms a part of the attaching element and allows an easy assembly of the attaching element 1 with the holding element 7. The features of claim 7 are also not disclosed in the references and therefore these claims should also be considered as patentably distinguishing over the art and should be allowed.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Alternatively, should

the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned (at 631-243-3818).

Respectfully submitted,


Ilya Zborovsky
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